THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.9455 OF 2006

ORAL ORDER:

This writ petition is filed seeking a declaration that the order of the respondents dated 27.4.2006 to the extent of restraining the petitioner from conducting its business in the secondary market and providing depository participant services to the existing customers is arbitrary and illegal.

This Court while directing *Rule nisi,* by order dated 2.5.2006 in W.P.M.P.No.11963 of 2006, granted interim suspension of the directives of the respondents to the extent of the second paragraph of the clarification dated 28.4.2006.

A counter affidavit has been filed on behalf of the respondents dated 20.7.2006 stating that during the pendency of this writ petition, the respondents after giving an opportunity of personal hearing to the petitioner passed an order dated 26.5.2006, and challenging the same, the petitioner preferred an appeal before the appellate authority. The said fact has not been disputed by the learned counsel for the petitioner. Admittedly, the appeal is pending as on today.

It is to be noted that the order dated 27.4.2006, impugned in this writ petition, was in the nature of an *ad-interim* order. Thereafter, admittedly, after hearing the petitioner, an order has been passed on 26.5.2006 issuing certain directions in exercise of the powers conferred under Section 11 and 11B read with Section 19 of the Securities and Exchange Board of India Act, 1992, pending enquiry and passing of final orders. The order dated 26.5.2006 itself shows that the directions issued therein are *in lieu* of the directions issued earlier in the interim orders dated 27.4.2006 and 28.4.2006.

In the circumstances, obviously, the order, which is impugned in the writ petition, is not subsisting. Admittedly, the petitioner has already availed the remedy of appeal against the order dated 26.5.2006, which is pending before the appellate forum. Hence,

nothing survives for adjudication on merits.

Accordingly, the writ petition is dismissed as infructuous. No costs.

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20th December, 2006. **(G. ROHINI, J.)**

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THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.9455 OF 2006

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20th December, 2006.

Between:

M/s Karvey Stock Broking Limited,
represented by its Vice President and Country
Head -S. Gopchand. .. Petitioner.

And

Securities and Exchange Board of India,
represented by its Chairman, Mittal Court,
B Wing, First floor, Nariman Point,
Mumbai, State of Maharashtra and another. .. Respondents.